

7 FCC Rcd 1915

Federal Communications Commission

DA 93-268

Before the
Federal Communications Commission
Washington, D.C. 20554

LETTER
March 8, 1993

Released: March 15, 1993

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Allied Media of Georgia, Inc.
Radio Station WGGA-FM
P.O. Box 1318
Gainesville, GA 30503

Dear Sir or Madam:

This is a Notice of Apparent Liability for a forfeiture of seventeen thousand five hundred dollars (\$17,500) issued pursuant to Section 503(b) of the Communications Act of 1934, as amended. This action is taken under authority delegated to the Chief of the Mass Media Bureau by Section 0.283 of the Commission's Rules.

On January 27, 1992, the Commission sent you a letter of inquiry requesting information as to whether Station WGGA-FM,¹ Cleveland, Georgia, has a studio capable of functioning as a main studio within the station's principal community contour, as required under Section 73.1125 of the Commission's Rules. Additionally, we asked you for a list of full or part-time employees who work at the main studio, the local or toll-free telephone number for residents of the community of license, and the location of the public file.

On August 7, 1992, we received your Response to the inquiry. You state that the Cleveland, Georgia, "main" studio is located at its transmitter site and that there are no employees at this studio on a full-time basis. You inform us that you have retained a contract engineer who works 24 hours a month. He conducts a weekly maintenance inspection of the "main" studio. Periodically, the general manager and the operations manager visit this site. You admit that, prior to receiving our letter of inquiry, you did not have either a local telephone number or a toll-free number for residents of Cleveland. However, you have now acquired a local telephone number and state your intention to activate a toll-free telephone number on August 7, 1992. Similarly, when you received our letter of inquiry, you were not maintaining a public file within your community of license as required by Section 73.3526 of the Commission's Rules. Instead, you report having a public inspection file at your Gainesville, Georgia, "auxiliary" studio. You indicate that as of August 3, 1992, you have placed a copy of the public file in the White County Public Library located in Cleveland, Georgia.

The main studio rule, 47 C.F.R. § 73.1125, requires that each licensee maintain a main studio within its principal community contour. Additionally, the Section requires licensees to maintain a "meaningful management and staff presence" at its main studio location. *Main Studio and Program Origination Rules (Clarification)*, 3 FCC Rcd 5024 (1988). In *Jones Eastern of Outer Banks, Inc.*, 6 FCC Rcd 3615 (1991), *clarified*, 7 FCC Rcd 6800 (1992), the Commission defined a minimally acceptable "meaningful presence" as full-time managerial and full-time staff personnel. It further stated that there must be "management and staff presence" on a full-time basis during normal business hours to be considered "meaningful." 6 FCC Rcd at 3616 n.2; *see also* 7 FCC Rcd at 6800 n.4. Although stations with only one studio and four or fewer employees need not limit their employees' ability to leave the studio to conduct station business, the main studio must remain attended during normal business hours. Management personnel need not be "chained to their desks" during normal business hours, but must "report to work at the main studio on a daily basis, spend a substantial amount of time there and . . . use the studio as a 'home base.'" *Jones Eastern Clarification*, 7 FCC Rcd at 6802.

On the basis of your response, it appears that you are in violation of Section 73.1125(a). It appears that you do not maintain a "meaningful management and staff presence" at the main studio. Neither employing a contract engineer to perform weekly maintenance inspections for 24 hours a month, which generally amounts to six hours a week, nor having the general manager or the operations manager visit the site "periodically," is equivalent to the rule's requirement of having employees work at the "studio on a daily basis, spend a substantial amount of time there and . . . use the studio as a 'home base.'" Thus, it appears you are in violation of the main studio rule.

It appears you have also violated Sections 73.1125(c) and Section 73.3526(d) of the Commission's Rules. Under Section 73.1125(c), the Commission requires licensees whose main studios are located outside the community of license to provide local telephone numbers or toll-free numbers for residents of their communities of license if community residents would otherwise incur charges in telephoning the stations. Under Section 73.3526(d), the licensee must maintain its public inspection file in the community of license.

You violated Section 73.1125(c) because you failed to maintain a toll-free or local number for the residents of Cleveland, Georgia, from August 29, 1991, the date you acquired the station to August 7, 1992, the date you stated that the line would be activated. Similarly, you violated Section 73.3516(d) because you did not locate the public inspection file within the station's community of license from August 29, 1991, the date you acquired the station, to August 3, 1992, the date you made a duplicate file available for public inspection in Cleveland, Georgia. You have been, and remain in violation of Section 73.1125(a), the rule requiring maintenance of a main studio within the principal community contour, because you do not maintain a "meaningful management and staff presence" at the Cleveland facility.

Accordingly, you are hereby advised of your apparent liability for a forfeiture of seventeen thousand five hundred dollars (\$17,500) for your apparent willful and repeated

¹ While we are aware that the licensee has changed the radio station's call sign to WGZM-FM, we are referring to the station

as WGGA-FM for consistency with the record compiled in this case.

violations of Sections 73.1125 and 73.3526 of the Commission's Rules. The amount specified has been reached after consideration of the factors set forth in Section 503(b)(2) of the Communications Act of 1934, as amended, and the guidelines described in our *Policy Statement, Standards for Assessing Forfeitures*, 6 FCC Rcd 4695 (1991), *recon. denied*, FCC 92-212, (June 4, 1992).

In regard to this forfeiture proceeding, you are afforded a period of thirty (30) days from the date of this letter "to show, in writing, why a forfeiture penalty should not be imposed or should be reduced, or to pay the forfeiture. Any showing as to why the forfeiture should not be imposed or should be reduced shall include a detailed factual statement and such documentation and affidavits as may be pertinent." 47 C.F.R. § 1.80(f)(3). Other relevant provisions of Section 1.80 of the Commission's Rules are summarized in the attachment to this letter.

Additionally, because it appears that you are still in violation of the main studio rule, Section 73.1125(a), you must take immediate remedial measures to bring yourself into compliance. Within thirty (30) days of the date hereof, you must provide documentation to this office outlining the steps you have taken to bring yourself into compliance. Since this is an ongoing violation, you are hereby notified that further similar forfeitures for additional periods of noncompliance may issue.

FEDERAL COMMUNICATIONS COMMISSION

Roy J. Stewart, Chief
Mass Media Bureau